

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

PHOENIX BOND & INDEMNITY CO. et al.,)	
)	No. 05 C 4095
Plaintiffs,)	Consolidated with No. 07 C 1367
)	
v.)	Judge Matthew F. Kennelly
)	
JOHN BRIDGE, et al.,)	
)	
Defendants.)	

**THE SASS DEFENDANTS' RENEWED MOTION FOR JUDGMENT
AS A MATTER OF LAW OR, ALTERNATIVELY, FOR A NEW TRIAL**

The Sass Defendants¹ respectfully move that this Court enter judgment in their favor as a matter of law on Counts One, Two and Seven of the plaintiffs' Third Amended Complaint, or, in the alternative, that this Court grant them a new trial. F.R. Civ. P., Rules 50(b) and 59.

The Sass Defendants assert that they are entitled to judgment as a matter of law on Counts One and Two because the plaintiffs failed to adduce evidence at trial sufficient to satisfy all the essential elements of those claims. Specifically, plaintiffs failed to show that mail fraud predicate offenses occurred; they failed to show that the Sass Defendants conducted or participated in the conduct of an enterprise; they failed to establish that the Sass Defendants engaged in a pattern of racketeering activity; and they failed to show the requisite causation. In addition, plaintiffs' evidence was insufficient to establish the specific intent required to impose liability on the Sass Defendants, who were accused of disregarding a rule of uncertain terms and uneven application. For these reasons, the Sass Defendants are entitled to judgment as a matter of law on Counts One and Two.

¹ Defendants Sass Muni-IV, LLC; Sass Muni-V, LLC; MD Sass Investors Services, Inc.; MD Sass Tax Lien Management LLC; MD Sass Municipal Finance Partners-IV, LLC; MD Sass Municipal Finance Partners-V, LLC; Vinaya Jessani and Kirk Allison are referred to collectively herein as the "Sass Defendants" for convenience.

The Sass Defendants further assert that the plaintiffs failed to establish the necessary elements of the alleged tort set forth at Count Seven, tortious interference with a business opportunity. The Sass Defendants are entitled to judgment as a matter of law for Count Seven.

The Sass Defendants further assert that the jury instructions issued in this case were incomplete in a manner that unfairly prejudiced the Sass Defendants, such that they are entitled to a new trial.

The Sass Defendants also assert that the punitive damages awarded by the jury verdicts in this case should not stand because there was no showing at trial that the Sass Defendants' conduct warranted the imposition of such punitive sanctions.

The Sass Defendants also assert that any damages awarded by this Court must be fashioned to prevent duplicate or windfall recoveries by the plaintiffs. To assure that such duplicate recoveries do not occur, damages must be set off against amounts previously recovered by plaintiffs from other defendants or putative defendants who allegedly inflicted the same injuries through the same course of conduct. Further, punitive damages may not be imposed where compensatory damages already have been trebled.

The Sass Defendants explain further why these outcomes are required in their "Memorandum of Law In Support Of Their Renewed Motion For Judgment As A Matter Of Law Or, Alternatively, For A New Trial," which is filed contemporaneously with this Motion. Further support for the Sass Defendants' position on the proper calculation of damages is contained within the Joint Status Report filed by the parties on December 13, 2011.

WHEREFORE, the Sass Defendants respectfully move for the entry of judgment in their favor or, alternatively, for the grant of a new trial.

Respectfully submitted,

The Sass Defendants

By: /s/ Mark L. Rotert
Counsel for the Sass Defendants
STETLER, DUFFY & ROTERT, LTD.
10 S. La Salle, Suite 2800
Chicago, IL 60603
(312) 338-0200
mrotert@sdrlegal.com

CERTIFICATE OF SERVICE

I, Mark L. Rotert, an attorney, hereby certify that, I caused a copy of the foregoing ***The Sass Defendants' Renewed Motion For Judgment As A Matter Of Law Or, Alternatively, For A New Trial*** to be filed and served via the Court's CM/ECF System on this 13th day of December, 2011.

/s/ Mark L. Rotert